IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 627 of 2001
(Old No. 1231 of 1989)

Chatur Singh (deceased)
S/o Harsh Singh
R/o Bhotia Paraur
Behind M.B. Degree College, Haldwani
District Nainital
1/1 Hemant Singh
1/2 Pratap Singh
1/3 Narendra Singh
1/4 Kamal Singh
1/5 Nirmal Singh
All Ss/o Chatur Singh
R/o Bhotia Paraur
Behind M.B. Degree College, Haldwani
District Nainital ... Appellants

Vs

Moti Ram Babu Ram
Educational Trust Haldwani
Through Sri H.P. Garh, Advocate, Haldwani
District Nainital ... Respondent

Sri Vinay Upadhyaya holding brief of Sri Alok Mehra, learned counsel for the appellants
Sri Rakesh Thapliyal, learned counsel for the respondent

Hon'ble B.C. Kandpal, J.

This second appeal under Section 100 of the C.P.C. has been preferred by the appellants against the judgment and decree dated 01.05.1989 passed by Civil Judge, Nainital in Civil Appeal No. 96 of 1982 arising out of the judgment and decree dated 04.11.1982 passed by IInd Additional Munsif, Nainital in Suit No. 11 of 1981.

2. Brief facts of the case are that the plaintiff/respondent filed a suit before the IInd Additional Munsif, Nainital for dispossession of the defendant/appellant from the land in question and compensation for damages which was allowed vide judgment and decree dated 04.11.1981.

3. Feeling aggrieved by the aforesaid judgment and decree, the defendant/appellant preferred an appeal before the first appellate court which was dismissed vide judgment and decree dated 01.05.1989.

4. Feeling aggrieved by the aforesaid judgment and decree, the defendants/appellants preferred this second appeal before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

5. Heard Vinay Upadhyaya holding brief of Sri Alok Mehra, learned counsel for the appellants, Sri Rakesh Thapliyal, learned counsel for the respondent and perused the record.

6. Having considered the arguments advanced by the learned counsel for the parties and after perusal of the evidence on record, I am of the view that, this second appeal is concluded by finding of facts, I therefore, do not find any ground to interfere in the impugned judgments and orders passed by the courts below. Both the courts below have recorded concurrent finding of fact which cannot be interfered with at the stage of second appeal. I also do not find any substantial question of law involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

12.12.2006
ASWAL